

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

Writ Petition No. 1646 of 2005

Phil Corporation Ltd. & Anr. .. Petitioners
V/s.

Union of India & Ors. .. Respondents

Mr. Shyam Diwan with Ms. Vishakha Vaswani and Ms.
Priya Bhagwati i/b. Mr. V.V. Juris for the Petitioners
Mr. R.V. Desai, Sr. Counsel with Mr. H.V. Mehta for the
Respondents

**CORAM : S. RADHAKRISHNAN &
J.H. BHATIA, JJ.**

DATED : 12.07.2005.

P.C.:-

1. Heard the learned counsel for the Petitioners and the learned senior counsel for the Respondents. Rule. Rule made returnable forthwith. The learned counsel for the Respondents waives service. By consent taken up for hearing.

2. By this Petition, the Petitioner is challenging two orders dated 28.10.2004 and 15.1.2005. The main contention of the learned counsel for the Petitioners, Shri Diwan is that the Respondent has passed the aforesaid orders without affording an opportunity of personal hearing to the Petitioners.

3. Shri Desai, the learned senior counsel appearing on behalf of the Respondents also does not dispute that the aforesaid orders were passed without affording an opportunity of personal hearing to the Petitioners. Over and above, we also notice that the aforesaid orders have not been passed taking into account the

observations made by this Court in our order dated

(2)

27.1.2004 passed in Writ Petition No. 703 of 1993.

4. Under the aforesaid facts and circumstances, we do hereby quash and set aside the orders dated 28.10.2004 and 15.1.2005 and remand back the matter to the Under Secretary, Government of India, Ministry of Finance, Department of Revenue, Drawback Directorate, with a direction that the Petitioners should be afforded a fair opportunity of personal hearing and the above matter should be decided strictly on its own merits and in accordance with law, after taking into account the representation made by the Petitioners dated 18.1.1992 in that behalf, which is annexed at Exhibit M to this Petition, as expeditiously as possible, preferably within a period of six months from today. Rule is made absolute in the above terms.

5. Shri Diwan, the learned counsel for the Petitioners states that the bank guarantee furnished by them pursuant to the first order passed in Writ Petition No. 703 of 1993 has already lapsed but, however, undertakes that the same will be renewed and will be kept alive till the decision is taken by the said Under Secretary and for a further period of four weeks thereafter.

(S. RADHAKRISHNAN, J.)

(J.H. BHATIA, J.)